19/47. **File No.** Wakf II/47

Legal **DEPARTMENT**

B **BRANCH**

Subject:— Rules and Notifications under Mussalman Wakf Act 1923

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Office of the P.L.A.

Short title of the subject-matter:

Amendment of proposed rule 24(c) of the Bombay Mussalman Wakf Rules, 1936.

The enactment to which the opinion principally relates-
The Mussalman Wakf Act,1923 (XLII of 1923).

The word "Secretary" in sub-rule (2) of proposed rule 24 C at pages 35-36 ante would mean the Secretary appointed under sub-rule (1) of the rule. There is, however, no objection to making the position clear as suggested by the Chief Judge at para 39 ante by the insertion of the words, brackets and figure "appointed under sub-rule (1) " after the word "Secretary" in sub-rule (2).

2. It is not necessary to make the further amendment suggested by the Chief Judge, namely, the insertion of the expression " or the expiration of the term of one year provided by sub-rule 23 (1-a)" at the end of sub-rule (2) of new rule 24-C. The Secretary appointed by the Court under proposed rule 24-C is a stipendiary Secretary and has no relation to the Secretary appointed by the Committee under rule 23(1-a). As in no case is the term of office of the stipendiary Secretary dependent on the term of office of the Secretary appointed under rule 23(1a) the amendment suggested by the Chief Judge is unnecessary.

3. It has been proposed to amend rule 23 (1) so as to make it obligatory on the Committee to appoint one of its members as a Secretary only in cases where a stipendiary ~~Secretary~~ Secretary has not been appointed by the Court under new rule 24C. As this provision will not apply to the appointments of Secretaries under rule 23(1a) it is for the consideration of the Revenue Department whether a similar provision should not be made in that rule, that is, rule 23(1a).

Sd/- P.H.Lad.
20/9.
Remembrancer of Legal Affairs.

U.O. to R.D. No.9455 dated 24.9.47.

4.Ce/H.V.W./15/5.

Office of the R.L.A.

In para. 1 of R.L.A's opinion No.3193, dated 30.4.1946 at page 21, it has already been pointed out that a Secretary from amongst the members of the Wakf Committee cannot be paid from the Wakf Administration Fund. It will therefore be open to the Wakf Committee to appoint a Secretary (who is not a paid Secretary) to carry out the ordinary routine of the Committee, in the absence of the paid Secretary proposed to be appointed by the Court under the proposed rule 24 C (1) on the recommendation of the Wakf Committee. Under the present rule 23(1) it is obligatory on the Committee to appoint a Secretary who shall carry out the ordinary routine of the Committee. Under the first amendment suggested by the Chief Judge, Court of Small Causes, Bombay, it is made optional. In the first amendment of the revised draft notification it has been provided that "Except where a stipendiary Secretary has been appointed by a Court under rule 24 C the Committee shall appoint one of its members as a Secretary, who shall carry out the ordinary routine of the Committee".

2. Subject to the above remarks, in place of the proposed draft notification at pages 31-32 ante, a revised draft notification with the requisite draft of previous publication as required by sub-section (1) of section 11 is sent herewith. The Revenue Department is requested to verify whether the revised draft carries out its intentions.

Sd/- D.V.Vyas.

Remembrancer of Legal Affairs.

U.O.R. to R.D. No.2515, dated the 14th March 1947.

4-Co.
M.V.V.
15.3

NOTIFICATION.
Revenue Department,
Bombay Castle, March 1947.

Mussalman Wakf Act, 1923.

No.2217/33.- The following draft of a notification which it is proposed to issue in exercise of the powers conferred by section 11 of the Mussalman Wakf Act, 1923 (XLII of 1923), is published as required by sub-section (1) of the said section 11 for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration by the Government of Bombay on or after the 1947.

2. Any objection or suggestion which may be received by the Secretary to the Government of Bombay in the Revenue Department from any person with respect to the said draft on or before the date aforesaid will be considered by Government.

Draft Notification.

In exercise of the powers conferred by section 11 of the Mussalman Wakf Act, 1923 (XLII of 1923), the Government of Bombay is pleased to amend the Bombay Mussalman Wakf Rules, 1936, as follows, namely:-

(1) In sub-rule (1) of rule 23 of the said Rules, for the words "The Committee shall also apoint a Secretary" the words, figures and letters" Except where a stipendiary Secretary has been appointed by a Court under rule 24-C, the Committee shall appointed one of its members as a Secretary" shall be substituted.

(2) After rule 24B of the said Rules, the following new rules shall be inserted, namely:-

"24C. Appointment of Secretary. (1) A Court may on the recommendation of the Wakf Committee appoint a Secretary to the Committee. He shall be paid such remuneration as may be fixed by the Court having regard to the recommendation, if any, of the Wakf Committee, in that behalf. The remuneration shall not exceed Rs.300/- per month in the case of the Wakf Committee constituted for Greater Bombay, and Rs.150/- per month in the case of Wakf Committees constituted elsewhere.

P.T.O.

(2) The term of office of the secretary shall not, unless otherwise determined by the Court, expire by reason of the constitution of a new Wakf Committee.

24D. Payment of travelling allowance. On the presentation of bills for travelling expenses, signed or countersigned by the President of the Wakf Committee, the Court may sanction the payment of travelling allowance to any member or Secretary of the Wakf Committee out of the Wakf Administration Fund for attending meetings of the Committee or for travelling for the purposes of any inquiry under the Act. The member or the Secretary shall be entitled to draw travelling allowance at the rate not exceeding that admissible to Government servants classifed as of the second grade for the purposes of travelling allowance."

By order of the Governor of Bombay,

Secretary to Government.

4-Cs.
M.V.V.
15/5.